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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,618	12/31/1999	DAVID W KURZYNSKI	15-IS-5297(7)	8075
7590	04/19/2005		EXAMINER	
JOSEPH D. KUBORN ANDRUS SCEALES STARKE & SAWALL 100 EAST WISCONSIN AVENUE SUITE 1100 MILWAUKEE, WI 53202			LEROUX, ETIENNE PIERRE	
		ART UNIT	PAPER NUMBER	
		2161		

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/476,618	KURZYNISKI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Etienne P LeRoux	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 January 2005.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.
- 4) Claim(s) 45-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 45-53 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Disposition of Claims

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 December 1999 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_ .



## **DETAILED ACTION**

### ***Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/28/05 has been entered.

### ***Claim Status***

Claims 45-53 are pending. Claims 1-44 have been cancelled. Claims 45-53 are rejected as detailed below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not

commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat No 5,734,915 issued to Roewer (hereafter Roewer) in view of US Pat No 5,289,574 issued to Sawyer (hereafter Sawyer).

Claim 45:

Roewer discloses:

displaying a plurality of open images [multiple windows displayed concurrently, col 13, lines 50-

55, Fig 10, col 17, lines 7-15, stacks of imagery, col 4, lines 55-57]

unloading an image selected from at least one of the plurality of open medical images [refresh Window redraws a PCW window with all its contents, col 13, lines 64-67 implies that the image was previously unloaded]

saving display settings [frame record, col 17, lines 38-52] of the unloaded image such that if the unloaded image is not closed and a user decides to redisplay the unloaded image, the unloaded image appears to have remained virtually open to the user as if the unloaded image had not been unloaded [refresh Window redraws a PCW window with all its contents, col 13, lines 64-67].

Roewer discloses the elements of the claimed invention as noted above but does not disclose managing a memory in a workstation when a size of user selected files exceeds the memory capacity in the workstation and unloading an image selected from at least one of the plurality of open medical images from the memory of the workstation. Sawyer discloses managing a memory in a workstation when a size of user selected files exceeds the memory capacity in the workstation and unloading an image selected from at least one of the plurality of open images from the memory of the workstation [hardware buffer 208, Fig 2, col 4, lines 19-59]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roewer to include managing a memory in a

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workstation when a size of user selected files exceeds the memory capacity in the workstation and unloading an image selected from at least one of the plurality of open medical images from the memory of the workstation as taught by Sawyer for the purpose of storing only the currently displayed image in the hardware frame buffer [col 2, lines 29-40]. The skilled artisan would have been motivated to modify Roewer per the above such that a user is able to address any number of the multiple virtual screens [col 2, lines 5-12] by creating virtual screens in the server (main memory) and thus selecting and displaying any one of a multiple images is independent of the size of the hardware buffer associated with the display of the user's workstation.

Claim 46:

The combination of Roewer and Sawyer discloses the elements of claim 45 as noted above and furthermore, Roewer discloses wherein the display settings are saved in the memory of the workstation [col 5, lines 60-65].

Claim 47:

The combination of Roewer and Sawyer discloses the elements of claim 45 as noted above and furthermore, Sawyer discloses wherein the unloaded image is transferred to a storage device connected to the workstation by a network [Fig 2, 102].

Claims 48-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roewer in view of US Pat No 6,137,860 issued to Ellegood et al (hereafter Ellegood).

Claims 48 and 52:

Roewer discloses opening a plurality of medical image files to display a plurality of medical images [Figs 4A-4C, col 3, lines 35-48].

Roewer discloses the elements of the claimed invention as noted above but does not disclose prioritizing the plurality of medical image files using a prioritization scheme having at least three levels

including a first level comprising a currently viewed medical image; a second level comprising medical images in a viewing stack; and a third level comprising medical images related to medical images with a higher priority; wherein the medical images from the first level are designated with a higher priority than the medical images of the second level and the medical images of the second level are designated with a higher priority than the medical images of the third level; and unloading from the memory of the workstation a medical image file having a lower priority than at least one of the open medical image files stored in memory, wherein the unloaded medical image file includes at least a portion of at least one of the open medical images. Ellegood discloses prioritizing the plurality of image files using a prioritization scheme having at least three levels including a first level comprising a currently viewed medical image; a second level comprising images in a viewing stack; and a third level comprising medical images related to images with a higher priority; wherein the images from the first level are designated with a higher priority than the images of the second level and the images of the second level are designated with a higher priority than the images of the third level; and unloading from the memory of the workstation a image file having a lower priority than at least one of the medical image files stored in memory, wherein the unloaded image file includes at least a portion of at least one of the open medical images [Fig 7, col 15, lines 13-25]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Roewer to include prioritizing the plurality of medical image files using a prioritization scheme having at least three levels including a first level comprising a currently viewed medical image; a second level comprising medical images in a viewing stack; and a third level comprising medical images related to medical images with a higher priority; wherein the medical images from the first level are designated with a higher priority than the medical images of the second level and the medical images of the second level are designated with a higher priority than the medical images of the third level; and unloading from the memory of the workstation a medical image file having a lower priority than at least one of the open medical image files stored in memory, wherein

the unloaded medical image file includes at least a portion of at least one of the open medical images as taught by Ellegood for the purpose of being able to simultaneously viewing three different images. The skilled technician would have been motivated to modify Roewer per the above such that a user is able to scroll through a plurality of images and make a side-by-side comparison between the three different images such that the user is able to detect possible differences between the images.

Claims 49 and 53:

The combination of Roewer and Ellegood discloses the elements of claim 48 as noted above but does not disclose wherein the third level only comprises open medical images related to open medical images from the first level. Roewer discloses that a non-computer-literate workstation operator can easily choose, arrange, annotate and edit medical source imagery [col 4, lines 64-67], images can be portrayed as an extension of the real world [col 11, line 13], the non-programming operator may combine images from different patients onto a single film [col 11, lines 35-37], the work station operator can drag or insert any displayed image into a frame, remove imagery from a fame or transfer the image to another frame [col 12, lines 5-10]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of Roewer and Ellegood to include wherein the third level only comprises open medical images related to open medical images from the first level for the purpose of inserting a medical image of another patient in the second level. The skilled artisan would have been motivated to modify the combination of Roewer and Ellegood per the above such that the workstation operator is able to make a comparison between the images of a first patient portrayed on the first and third levels with the image of a second patient portrayed on the second level.

Claim 50:

The combination of Roewer and Ellegood discloses the elements of claim 48 as noted above and furthermore, Roewer discloses further comprising the step of saving the visual display settings [frame record, col 17, lines 38-52] of the unloaded medical image file such that if the unloaded medical image

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file is not closed and a user decides to redisplay the unloaded image file, the unloaded medical image file appears virtually open to the user and as if the unloaded medical image file had not been unloaded [refresh Window redraws a PCW window with all its contents, col 13, lines 64-67].

**Claim 51:**

The combination of Roewer and Ellegood discloses the elements of claim 48 as noted above and furthermore, Roewer discloses wherein the unloaded open medical image file is transferred to a storage device connected to the workstation by a network [col 8, lines 15-33].

***Response to Arguments***

Applicant's arguments filed 1/28/2005 with respect to claims 45-53 have been considered but are moot in view of above new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022. The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Etienne LeRoux

4/16/2005